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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,459	03/26/2001	Fritz Schwetfeger	HOE96/F319CON	1602

7590

10/08/2003

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EXAMINER

LOVERING, RICHARD D

ART UNIT

PAPER NUMBER

1712

DATE MAILED: 10/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/817,459	Applicant(s) SCHWERTFEGER ET AL.	
	Examiner Richard D. Lovering	Art Unit 1712	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED ^{SEP. 2, 2003} FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: (SEE ATTACHMENT.)

3. ☒ Applicant's reply has overcome the following rejection(s): ALL IN FINAL REJECTION
2-4, 6, 7, 56-59, 62, 63, 67-69, 71, 76-96, 100-106, 118, 123, 125-128, 132-136, 142 AND 144
4. ☒ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 3, 5, 62, 63, 67-69 AND 71

Claim(s) objected to: 2, 4, 6, 7 AND 56-59.

Claim(s) rejected: 1, 8-14, 16-33, 35-55, 60, 64, 66, 70, 72, 74 AND 75.

Claim(s) withdrawn from consideration: 15, 34 AND 73.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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11. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be renumbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 128 on page 22 of fax amendment filed 09-02-03 has been renumbered 148.

12. As to 2(a) above: (1) Product claims 107-117, 119-122, 140, 141, 143, 145 and 146 require further consideration and/or search because product claims can be old or unpatentable even if a certain process of making is allowable; (2) claims 147 and 148 are indefinite as to scope and don't further limit claims 56 and 59, resp. (upon which they depend) as to pH; (3) claim 124 is indefinite and incomplete in depending upon cancelled claim 54; and (4) claims 97-99, 129-131 and 137-139 would be subject to rejection on the ground of obviousness-type double patenting over the claims of applicants' U.S. Patent No. 6,159,539.

13. Applicants' attorneys Peter McDermott and Chris Rhodes indicated in a telephone conversation on October 1, 2003 that an IDS was filed on or about September 17, 2003 in this application, but no such document is found in the PTO's copy of the application.

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lovering whose telephone number is (703) 308-0443. The examiner can normally be reached on Mon.-Fri. from 7:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson, can be reached on (703) 308-2340. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

R. Lovering:cdc
October 1, 2003

Richard D. Lovering
RICHARD D. LOVERING
PRIMARY EXAMINER
GROUP ~~100~~ 1700